

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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Government Employees Insurance Company;  
GEICO Indemnity Company; GEICO General  
Insurance Company; GEICO Casualty Company,

Plaintiffs,

**MEMORANDUM & ORDER**

19-CV-05876 (DG) (LB)

-against-

Rafael Antonio Delacruz-Gomez, M.D., and  
John Does Nos. "1" Through "5,"

Defendants.\*

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DIANE GUJARATI, United States District Judge:

On October 17, 2019, Plaintiffs Government Employees Insurance Company, GEICO Indemnity Company, GEICO General Insurance Company, and GEICO Casualty Company (collectively, "Plaintiffs") commenced this action, alleging, *inter alia*, violations of the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. § 1961 *et seq.*, as well as claims for common law fraud and aiding and abetting fraud. *See generally* Complaint, ECF No. 1.

Plaintiffs have dismissed this action as against most of the defendants. Defendant Rafael Antonio Delacruz-Gomez, M.D., remains in the action.

Delacruz-Gomez was served, *see* Executed Summons, ECF No. 22, but did not appear in the action, and the Clerk of Court entered default against Delacruz-Gomez on December 30, 2019, *see* Entry of Default, ECF No. 34.

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\* The Clerk of Court is respectfully directed to amend the caption as set forth above.

On May 10, 2021, Plaintiffs moved for default judgment against Delacruz-Gomez on their third cause of action for violation of the civil RICO statute and on their fifth cause of action for aiding and abetting fraud, pursuant to Federal Rule of Civil Procedure 55(b)(2). *See generally* Motion for Default Judgment (the “Motion”), ECF No. 55. I referred the Motion to Magistrate Judge Lois Bloom for a report and recommendation. *See* May 11, 2021 Order.

On December 16, 2021, Judge Bloom issued a thorough and well-reasoned Report and Recommendation (the “R&R”) recommending that I grant in part and deny in part Plaintiffs’ Motion. *See generally* R&R, ECF No. 60. No objection to the R&R has been filed, and the time for doing so has passed. *See id.* at 14.

A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b). To accept those portions of a report and recommendation to which no timely objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record.” *Jarvis v. N. Am. Globex Fund, L.P.*, 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (quotation marks omitted).

I have reviewed Judge Bloom’s R&R, and, having found no clear error, adopt the R&R in its entirety.

Therefore, Plaintiffs’ Motion for Default Judgment is granted in part and denied in part, as set forth in Judge Bloom’s R&R. Plaintiffs are granted a default judgment in the amount of \$1,645,107.00 against Defendant Rafael Antonio Delacruz-Gomez, M.D., on Plaintiffs’ RICO claim. Plaintiffs’ motion for damages and interest on their common law fraud claim is denied.

The Clerk of Court is directed to enter judgment accordingly.

Plaintiffs are directed to serve a copy of this Order on Defendant Rafael Antonio Delacruz-Gomez, M.D., by certified mail and to file proof of service no later than January 20, 2022.

SO ORDERED.

/s/ Diane Gujarati  
DIANE GUJARATI  
United States District Judge

Dated: January 13, 2022  
Brooklyn, New York